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SUBJECT: OPPOSITION RAISES DETENTION OF EX-GOVEROR LAPI AS
CAMPAIGN ISSUE

REF: CARACAS 1612

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Classified By: Robert Downes, Political Counselor,
for Reason 1.4(b).

11. (U) SUMMARY. Eduardo Lapi, former opposition governor of Yaracuy state, remains in jail five months after his arrest for mismanagement of government funds (reftel). As Lapi faces prolonged pre-trial incarceration inconsistent with the treatment of other officials facing similar charges, opposition presidential candidate Manuel Rosales and other opposition leaders are turning this and other cases involving political prisoners into campaign issues. Family members continue to press for Lapi's release, claiming he has the constitutional right to be judged in liberty. In late October, Lapi's lawyers presented the case to the OAS. END SUMMARY

POLITICAL PROSECUTION AND OPPOSITION SOLIDARITY

12. (U) From the moment of his arrest on corruption charges in May 2006, ex-Yaracuy Governor Lapi's supporters and opposition leaders have accused the federal government of waging a purely political prosecution. Local prosecutors rejected the notion that they were acting under pressure from the federal government to pursue the case against Lapi. To the contrary, Vice President Rangel has argued that Lapi's imprisonment is an indication that justice is alive and well in Venezuela.

13. (U) Opposition leaders have taken up Lapi's case since shortly after his arrest at the end of May. Then-Secretary General of opposition party Primero Justicia Gerardo Blyde visited Lapi in prison in early June. Comparing Lapi's situation to that of Baruta's opposition mayor Henrique Capriles Radonski, Blyde said the government is disrespecting the fundamental constitutional right to the presumption of innocence.

14. (SBU) Consensus opposition presidential candidate Manuel Rosales is publicly championing Lapi's cause. Rosales has claimed to have called Lapi personally to express solidarity. He led a July 8 demonstration march against Lapi's detention

in San Felipe, Yaracuy's capital. When he made an October 2 campaign stop in Yaracuy, Rosales publicly called on the Supreme Court to release Lapi and "all the political prisoners that have defended the liberty of our country." Rosales also called for Lapi's release during his campaign speech before the tens of thousands of supporters that attended Rosales's October 7 "Avalanche" rally in Caracas.

15. (U) Lapi's continued detention without trial distinguishes his case from most other ongoing corruption investigations in Venezuela, in which most accused maintain their liberty, and in some cases, their elected positions. Prosecutors argue that Article 250 of the Organic Code of Penal Processes allows judicial authorities, under cases of extreme necessity and urgency, to call for the apprehension and detention of the accused. Lapi's attorneys have called the judge's actions a "judicial crime."

JUDICIAL STALLING

16. (U) The BRV typically drags out judicial procedures interminably in prosecutions involving members of the political opposition. The BRV regularly engages in this practice, keeping key opposition members twisting in the wind and believing that their concern over the prosecution will hamstring their effectiveness as political leaders. Such strategy is typical of the systematic harassment of the opposition that permeates the BRV. The first example of this tendency in Lapi's case occurred one month following his detention. The law gives the prosecution 30 days to arraign the accused. Twenty-nine days following Lapi's detention, the courts granted prosecutors an additional ten days, ostensibly to allow more time for the government to obtain results from financial and budgetary inquiries. Lapi was officially arraigned on July 11, some 40 days after his

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initial arrest. The preliminary hearing of Lapi's trial was postponed indefinitely on August 14.

APPEALING TO HIGHER COURTS

17. (U) Lapi's wife took his case to the Supreme Court on October 3, demanding that Lapi's rights be respected and his liberty granted. Lapi's wife and daughter again went to the Supreme Court on October 17 to plead their case to Supreme Court magistrate Eladio Aponte Aponte. Again Lapi's family was rebuffed and Lapi's imprisonment was not addressed.

18. (C) Lapi's lawyers appealed October 25 to the OAS, requesting that body intervene in the matter to guarantee a just trial for Lapi. The lawyers, taking advantage of OAS Secretary General Jose Miguel Insulza's presence in Caracas

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to discuss possible OAS observation of December presidential elections, delivered its petition to the OAS mission in Caracas. Former Director of the Caracas OAS Mission Carlos Carbacho told Poloff November 6 that the filing of the petition was a formality (NOTE: Carbacho's status as "former Director" is recent; he was still Director on October 25. END NOTE). The OAS Country Missions have no role in assessing the merits of such a petition; rather, they are statutorily obliged to forward every document they receive to the IACHR. Carbacho added that the IACHR was not likely to make a determination on the reviewability of Lapi's case anytime in the near future. Insulza's visit to Caracas, Carbacho said, was purposely limited to 24 hours to avoid any prolonged discussion - particularly before the press - on topics unrelated to the election observer mission. Specifically, Carbacho mentioned that Insulza took great pains to steer any conversation away from the state of human

rights in Venezuela.

COMMENT

¶9. (C) It is clear to us that the Bolivarian justice system is handling Lapi differently because he is an opposition figure. Rosales's inclusion of what he views as political persecution, specifically Lapi's situation, as a campaign theme indicates he sees the issue as a possible vulnerability for Chavez. Lapi's prolonged incarceration is directly related to his opposition status. The disproportionate treatment that separates his case from the run-of-the-mill BRV corruption scandals leads us to agree with Rosales's assessment.

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